

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMIE ARNOLD, et al.,)
Plaintiffs,)
v.)
DIRECTV, LLC, et al.,)
Defendants.)
No. 4:10-CV-352 JAR

MEMORANDUM AND ORDER

This matter is before the Court on Defendants' Daubert Motion to Preclude Plaintiffs' Proposed Expert L. Scott Baggett, Ph.D. from Testifying or Otherwise Proffering the Opinions and Calculations Contained in his Proposed Expert Report (Doc. No. 313). The motion is fully briefed and ready for disposition.

Plaintiffs are former satellite installation and service technicians classified as W-2 employees of one of DirecTV's Home Services Providers ("HSPs") - MasTec, Multiband, DirectSat, DirecTV Home Services, and DTV Home Services II, LLC (and its predecessor entities). Plaintiffs allege the piece rate pay system used throughout DirecTV's provider network fails to compensate them for work deemed nonproductive in violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201 et seq., and the Missouri Minimum Wage Law ("MMWL"), Mo. Rev. Stat. §§ 290.500 et seq.

Plaintiffs contend the existence of uncompensated time resulting in technicians being underpaid can be resolved on a class-wide basis to show that the class members were damaged. Plaintiffs have retained statistician L. Scott Baggett, Ph.D., as an expert witness to analyze

documents, computer data and sworn questionnaire responses to calculate, among other things, the amount of unpaid wages owed to Plaintiffs. (See Baggett Report, Doc. No. 385-3) The use of representative evidence to prove damages is justified only where it is reasonable to believe that the testifying witnesses' experiences are sufficiently similar to those of the rest of the non-testifying plaintiffs. See Rousell v. Biker Int'l, Inc., CIV.A.H-05-3733, 2008 WL 2714079, *22 (S.D. Tex. July 9, 2008). In light of the Court's rulings herein denying summary judgment and decertifying the FLSA subclasses,

IT IS HEREBY ORDERED that Defendants' Daubert Motion to Preclude the Testimony of L. Scott Baggett, Ph.D. [313] is **DENIED** as moot.

Dated this 31st day of March, 2017.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE